

SECTION 5311 STATE MANAGEMENT PLAN



FEDERAL ASSISTANCE FOR RURAL PUBLIC TRANSPORTATION

**INDIANA DEPARTMENT OF TRANSPORTATION
TRANSIT OFFICE
JUNE 2006**

**STATE MANAGEMENT PLAN
FOR SECTION 5311-TRANSIT
ASSISTANCE TO SMALL
URBAN & RURAL AREAS**

**STATE OF INDIANA
Mitchell E. Daniels Jr., Governor**

**INDIANA DEPARTMENT OF TRANSPORTATION
Revised June 2006**

Indiana Department of Transportation
Transit Office
100 North Senate Avenue
Indianapolis, Indiana 46204
317/232-1483
317/232-1499 (FAX)

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PREFACE

The Section 5311 State Management Plan is designed to assist current and potential grant recipients in fulfilling the various requirements of receiving federal financial assistance in accordance with the Federal Transit Administration (FTA) Circular 9040.1E. The FTA provides limited federal financial assistance to support the operation and capital investment needs of public transportation systems in rural and small urban areas. Its purpose is to outline the Indiana Department of Transportation's (INDOT's) plan for administering the Section 5311 program and as a source of guidance to current grantees and interested parties.

Inquiries concerning the Section 5311 Program should be directed to:

ATTN: Program Manager
Indiana Department of Transportation
Division of Local Programs
Transit Office
100 N. Senate Avenue
Indianapolis, Indiana 46204

SECTION I: PROGRAM BACKGROUND

A. INTRODUCTION

This Management Plan explains the policies and procedures used by the Indiana Department of Transportation (INDOT) to implement the Section 5311 program. In 1978 the United States Congress passed the Surface Transportation Assistance Act (STAA) which amended the Federal Transit Act. The STAA added Section 5311 which established a program (for the first time) to provide federal grant assistance to rural and small urban areas for public transportation. Each state and US Territory is allocated Section 5311 funding, which is administered by that state's Governor or Territory's Administrator. The Governor of Indiana has designated the Indiana Department of Transportation as the agency responsible for administering this assistance.

Section 5311 funding can be used for capital and/or operating assistance to public transportation operators, nonprofit agencies, local public bodies, or state agencies. Also, INDOT may use Section 5311 funding for its administrative costs and to provide technical assistance.

INDOT recommends that current grantees and potential applicants review this plan and other program related materials prior to applying for a grant. In addition, INDOT encourages prospective applicants to meet with INDOT Transit staff early in the planning stage to discuss grant projects. INDOT has found that pre-planning meetings can improve the applicant's understanding of program requirements. First time applicants must complete a feasibility study in order to apply for funding assistance. A feasibility study project period is based on a calendar year (January – December). Based on funding availability, applicants who have completed an approved feasibility study will be eligible to apply for funding assistance the following calendar year. Each new system will be established as a demonstration project that INDOT is not obligated to fund beyond two years. INDOT will review the consistency between an applicant's feasibility study projections and two years data on vehicle miles, operating expenses, and passenger trips.

B. DEFINITIONS

This section identifies some common terms and definitions used in the Section 5311 program.

1. Eligible Applicant - Agencies eligible to receive funding directly from INDOT. The applicant must be a unit of government authorized under state law to provide and carry out a local public transportation project. Eligible Applicants include:
 - a. State of Indiana, counties, cities, or towns. (Although the State of Indiana is a legal applicant, INDOT requires all projects to be sponsored by a unit of local government.)

- b. Public Transportation Corporation (PTC) as established under Indiana Code 36-9-4-11, Regional Transportation Authorities (RTA) as established under I.C. 36-9-3-2, Regional Planning Commissions as established under I.C. 36-7-7, or non-profit organizations with formal resolution of the local governing board of an eligible public recipient.
2. Program of Projects - This is an annual plan listing local projects INDOT intends to fund with Section 5311 assistance. The Program of Projects will consist of brief project descriptions and proposed funding breakdowns. INDOT and the Federal Transit Administration approve it.
3. Eligible Rural Public Transit Service - Any transportation service provided by bus, shared-ride taxi, or other publicly or privately owned conveyance, which serves the general public on a regular basis in primarily nonurbanized areas. Eligible projects may constitute an entire public transit system, a particular service or function within that service, or an individual route or route segment. Service may include the transportation of non-urbanized residents to and from urbanized areas. However, such services should not include pick-up and discharge operations within the urbanized area, particularly if the urbanized area is served by public transit. If Section 5311 funds are used in a joint urbanized and non-urbanized project, Section 5311 funds must be used primarily to assist the non-urbanized portion of the project.
4. Services not eligible for assistance - Any exclusive ride taxi service and service to individuals or groups which exclude use by the general public.
5. Existing Grantees - Eligible applicants identified in definition #1 which are currently receiving Section 5311 funding from INDOT.
6. Urbanized Area - Those areas in the state as defined by the U.S. Bureau of Census in the current decennial census as urbanized.
7. Non-urbanized Area. Rural or Small Urban Area - These terms are used synonymously for any area outside an urbanized area with a population of less than 50,000.

C. ROLES AND RESPONSIBILITIES

1. INDOT - INDOT has been designated by the Governor as the state-administering agency for the Section 5311 program. INDOT's responsibilities include a fair and equitable distribution of funds, adhering to federal and state program guidelines, notifying eligible applicants about the availability of the program, developing program criteria, soliciting applications, and monitoring and improving coordination of public transportation services at the local and state levels. INDOT will certify eligibility of applicants, review applications, select applications for approval, monitor grants, ensure that audits are performed on all Section

5311 grants, and close out projects. INDOT is also responsible for providing appropriate technical assistance for non-urbanized areas.

2. Applicant - The applicant, (as described in Sec. I, Part B) is responsible for developing the grant application and supporting documentation as required by INDOT. The applicant must assess and identify the transit need, plan an appropriate transit system, and establish the funding plan. The applicant may directly operate the transit system or contract for service with a private for-profit or nonprofit provider. In either case, the applicant is responsible for: compliance with program requirements (federal and state); project management and management oversight; monitoring budgets, service, and subcontracts; ongoing service planning; and ensuring that audits are performed in accordance with INDOT requirements. Under a purchase of service arrangement, the applicant must enter into a contract with the transit provider before expenditures may be reimbursed by INDOT under a grant contract. INDOT requires that any applicant contemplating a purchase of service arrangement procure those services competitively.
3. Interagency Cooperation Group - INDOT has established an Interagency Cooperation Group (ICG) to facilitate cooperation and coordination between other state administered transportation programs and the Section 5311 program. The purpose of establishing this group is twofold: (1) to assist and advise INDOT in the review and selection of Section 5311 grant applications, and (2) to provide a forum for discussing strategies and policies that may assist INDOT in achieving its program goals.

The group consists of representatives from each state agency that have responsibility or direct statutory authority for transportation related activities. The ICG is comprised of the following members:

Family & Social Services Administration – Division of Family Resources
Family & Social Services Administration – Division of Aging
Family & Social Services Administration – Division of Disability & Rehabilitation Services
Indiana Department of Transportation/Transit Office – 5311 Program Manager
Indiana Department of Transportation/Transit Office – 5311 Project Managers (2)
Indiana Department of Transportation/Transit Office – Transit Planner
Rural Transit Assistance Program (RTAP) – Coordinator

4. Federal Transit Administration - The Federal Transit Administration (FTA) is the federal oversight agency. The FTA headquarters office in Washington, D.C. is responsible for: providing overall policy and program guidance for the Section 5311 program; allocating funds annually to the States; developing and implementing financial management procedures; initiating and managing program support activities; and conducting national program review and evaluation.

The FTA Region V Office in Chicago is responsible for the day-to-day administration of the program. Regional office activities include: reviewing and approving state grant applications; obligating funds; working with states to implement the annual program; receiving state certifications and revisions to the program of projects; review and approval of State Management Plans; oversight of state management responsibilities; and overall grant management.

D. GOALS

INDOT has identified the following goals to provide direction in the implementation of the Section 5311 program. These goals were developed from state and federal legislation and regulations, and INDOT's programs and plans.

1. To improve access of rural residents including persons with disabilities to shopping, education, employment, health care, recreation and all other community services.
2. To assist in reconnecting small urban and rural areas to urbanized areas and regional economic centers.
3. To promote the safe, effective and efficient delivery and coordination of public transit.
4. To assist in the maintenance, development, and improvement of public transit.
5. To provide an alternative to the private automobile.

SECTION II: FUNDING AND GRANT ASSISTANCE

A. FUNDING

1. Federal Apportionment of Funds

The Federal Transit Administration (FTA) apportions Section 5311 funds to each state by a federal congressionally mandated population formula. The formula is determined by the ratio of each state's non-urbanized population to the total non-urbanized population of all 50 states plus U.S. territories. The data used in the formula are from the most current census report.

2. State Allocation of Funds

a. INDOT Administrative & Technical Assistance Funding

Up to 15 percent of the state's annual apportionment may be assigned to administer the program and provide technical

assistance to applicants and existing transit systems. Technical assistance may include project planning and development (including feasibility studies), management and operations, maintenance, and coordination of public transportation resources and programs (public and private). INDOT's technical assistance program is explained in more detail later in this section.

b. Intercity Bus Set-A-Side Funding

Under Section 5311(f) of the Intermodal Surface Transportation Efficiency Act of 1991, INDOT is required to spend 15 percent of the Section 5311 apportionment to carry out a program for the development and support of intercity bus transportation. This percentage set-a-side is effective unless the Governor certifies that the intercity bus service needs of Indiana are being adequately met.

Funding must support intercity bus service in small urban and rural areas. Eligible activities include, but are not limited to: planning and marketing; capital grants for shelters, joint-use stops and depots; operating grants through purchase-of-service agreements, user-side subsidies, demonstration grants, and coordination of small urban/rural transit operations and intercity bus carriers. Charter and tour services are not eligible for this assistance in accordance with federal regulation 49 CFR PART 604.

c. Public Transit Project Funding

The remaining percentage of the annual apportionment is allocated to existing grantees by a formula. The funding is allocated as follows: the Service Area Population has a 30 percent (weight factor), Annual Passenger Boardings a 30 percent (weight factor) and Locally Derived Income (LDI) a 40 percent (weight factor). All three data sources are chosen to provide stability to the formula. To improve funding dependability and predictability, the passenger boardings and LDI data are averaged for the most current three year period.

Population was chosen and weighted at 30 percent to provide a base allocation to all grantees. It is a stable and predictable allocation factor.

Passenger Boardings was chosen and weighted at 30 percent to encourage grantees to maintain and improve passenger boarding levels. INDOT considers this a foundational objective of all transit services.

LDI was chosen and weighted at 40 percent to encourage stable or increasing levels of local funding. The higher weighting for LDI represents INDOT's emphasis on local funding support for transit

services. LDI includes fare revenues, local appropriations, unrestricted federal/state funds (i.e., federal/state funds eligible to match Section 5311 funds) and cash grants. LDI does not include contra-expenses (e.g., expense refunds such as, motor fuel tax) or in-kind volunteer labor services.

A grantee's allocation amount may be used for capital and/or operating assistance grants. Eligible assistance projects are discussed later in the plan.

- (1) **Formula Calculations** - Allocation factors (ratios) are calculated by dividing each grantee's Population, three year average Passenger Boardings, and three year average LDI by the Total Population, average Passenger Boardings, and average LDI for all existing grantees. Each allocation factor is multiplied by its weight factor; then all three factors are added together to create the grantee's total allocation Factor. Each grantee's total allocation factor is then multiplied by the available Section 5311 funds to calculate each grantee's funding allocation amount. The formula is provided below and an example allocation is provided in **Appendix A**:

$$\frac{\text{POP}}{\text{TOTAL POP}} \times .3 + \frac{\text{AVG PASS}}{\text{TOTAL AVG PASS}} + \frac{\text{AVG LDI}}{\text{TOTAL AVG LDI}} \times \text{AVAIL. SEC. 5311 FUNDS}$$

- (2) **Data Inputs to Allocation Formula** - Population data will be from the most current census report. INDOT will use the most recent three years of data available from the annual public transportation reports for Passenger Boardings and LDI. This data is verified annually by INDOT. Data that can not be verified as accurate will not be used. If this situation occurs, INDOT will use previous year's data or INDOT may develop a reasonable estimate. If a grantee consistently provides inaccurate data, INDOT has the right not to allocate funding to that grantee based on that particular allocation factor.
- (3) **Discretionary Funding** - Allocated funds that are not requested by a grantee will go into a program reserve balance. This funding will be available to all existing grantees for capital grants that cannot be funded through their formula allocation amount. Also, this funding will be available to new applicants requesting operating assistance.
- (4) **New Applicants and Allocation Formula** - Any new applicant approved for funding will be added to the funding formula in subsequent years following the second consecutive year of INDOT funding.

- (5) Disposition of Fund Balance - In the event funding is left in the program reserve balance; it may be programmed as a reserve funding line-item or carried forward and added to the next year's apportionment. Alternatively, fund balances may be used by INDOT to fund special projects or marketing studies, etc. The Governor may transfer the reserve funds to urbanized areas under 200,000 population. Likewise, the Governor may transfer FTA Section 5307 (the urbanized transit program) funds from urbanized areas under 200,000 population to the Section 5311 program. This type of transfer will only occur after consultation with the affected urbanized areas. INDOT will be responsible for notifying the FTA Regional Administrator on each transfer of Section 5311 or Section 5307 funds. In addition, Section 5310 (the capital program for non-profit agencies) funds may be transferred to Section 5311 within the last 90 days of its availability.

3. Local Share and Funding Requirements

The applicant must provide local funding for a Section 5311 grant. The local share must be from non-FTA sources of funding, and can include any local or state sources, or unrestricted federal/state funds. A list of unrestricted federal/state funds eligible as match under Section 5311 may be found in Vol. I, Attachment II-3 of the Section 5311 Program Manual or requested from INDOT.

At least one half (50%) of the local share must be provided in cash or cash equivalent from sources other than unrestricted federal/state funds. Contract revenues from a purchase of transit service agreement funded by unrestricted federal/state funds, may be used as the local cash share. Examples of local share which constitute cash include:

- a. Local grants, appropriations, and dedicated tax revenues.
- b. Income derived from purchase of service contracts, including contracts where the purchaser utilizes unrestricted federal/state funds to finance the purchase of transit service. Community Services Block Grant (CSBG) funds received by local agencies falls under this category and is considered local "cash" funding.
- c. State funds from the Public Mass Transportation Fund (PMTF): The PMTF is a dedicated fund derived from 0.635 percent of the state's general sales and use tax. It is administered by INDOT and it can match up to the total sum of the locally derived income of an approved capital or operating grant. **New starts are eligible for state PMTF assistance ONLY after completing their two year**

demonstration period and INDOT has reviewed the two year data.

- d. Other state funds eligible to match federal funds: For other state funds to be used as match, they must be approved by the appropriate state grantor agency.
- e. In-kind contributions (cash equivalent) as defined in 49 CFR PART 18 - Uniform Administrative Requirements for Grants And Cooperative Agreements to State And Local Governments (Vol. II, Appendix B).

It has been INDOT's experience that local commitment to a project in the form of local cash, remains one of the most crucial elements to the success of public transit service. Without local cash it is hard to determine the relative importance of public transit when compared to other local services and to assess whether the service would survive if federal funding is decreased. To emphasize this point, INDOT intends to use Section 5311 to augment and enhance existing revenue sources and will not fund projects that simply replace existing revenues with Section 5311 and state funds.

B. GRANT ASSISTANCE

1. Capital Grants

INDOT will make Section 5311 assistance funds available for capital expenses, which generally includes the acquisition, construction and improvement of public transit facilities and equipment. The Section 5311 share may not exceed 80 percent of the net capital cost. Examples of eligible capital expenses included, but are not limited to:

- a. Buses, vans, or other para-transit vehicles;
- b. Radios and communications equipment;
- c. Passenger shelters and bus stop signs;
- d. Wheelchair lifts and restraints;
- e. Vehicle rehabilitation;
- f. Operational support such as computer hardware and software;
- g. Spare parts with a unit cost over \$300 and/or a useful life of more than one year; and
- h. Construction or rehabilitation of transit facilities including design, engineering, and land acquisition

Intercity Bus - Section 18(f) funds are also available for the above capital expenses, up to the same federal share. In addition, intercity capital grants may include planning and marketing projects.

2. Operating Grants

INDOT will provide Section 5311 funds for operating expenses related to providing transit services. The Section 5311 share may not exceed 50 percent of the net operating expenses. Net operating expenses are defined as the difference between the total eligible operating expenses and operating income generated from the public transit service. Examples of eligible operating expenses are: salaries and wages, fringe benefits, purchase of transit service contracts, fuel, oil, lubricants, replacement parts, tires, vehicle insurance, and licenses.

Intercity Bus-Section 18(f) funds are also available for operating projects. Eligible activities include, but are not limited to: purchase-of-service agreements, user-side subsidies, demonstration grants, and coordination of small urban/rural transit operations and intercity bus carriers.

INDOT has the option of treating some expenses as grantee project administrative expenses. Expenses such as insurance and office rental are considered administrative. INDOT established a policy to fund all expenses related to Intercity operations at up to 50 percent federal share. This decision was made in order to stretch the federal funding.

Eligible capital, operating and intercity expenses are discussed in detail in the grant application packages available from INDOT.

3. Technical and Management Assistance

INDOT provides management and technical assistance to small urban and rural public transit providers. INDOT will provide management assistance to help develop knowledgeable transit management and improve the effectiveness of transit operations. Also, INDOT provides a variety of technical assistance in the areas of planning, funding, vehicle and equipment procurement, and vehicle maintenance training. These areas of assistance are described below:

a. Planning

This type of assistance is available upon request and may include transit feasibility studies, ridership surveys, ridership estimates, routing and scheduling, revenue and cost projections, and an identification of equipment needs.

b. Financing

INDOT will help applicants/grantees identify alternative funding sources as well as assist in preparing grant budgets.

c. Vehicle and Equipment Procurement

INDOT will help with the procurement of grant related equipment. INDOT has a guide for developing small vehicle specifications and a general guide on procuring equipment and services. Information concerning this topic may be found in Section V of this plan. In addition, some equipment such as computers and passenger vehicles may be purchased from state quantity purchase awards.

d. Vehicle Maintenance

INDOT provides a preventative maintenance manual and training through the Rural Transit Assistance Program (RTAP).

e. Training

INDOT periodically sponsors seminars, workshops and training sessions on rural transit management and operations. In addition INDOT provides an ongoing program through the Rural Transit Assistance Program, which is explained below.

f. Rural Transit Assistance Program (RTAP)

RTAP is a comprehensive and flexible program of training, technical assistance, research, and support services for rural public and specialized transit agencies. In 1987 RTAP was authorized by the passage of Section 18(h) of the Federal Transit Act. The RTAP has both a national and a state component. The National RTAP develops services and products of use to rural transit providers nationwide. Each state also receives a RTAP allocation to develop products and services that are state specific in nature. INDOT receives an annual federal allocation to develop and implement its program in conjunction with the Section 5311 Non-urbanized Area Public Transportation Assistance Program. While the RTAP is a portion of the Section 5311 funding, its purpose is somewhat different in nature.

INDOT's RTAP is available to assist rural and small urban transportation providers with training and technical assistance. The RTAP provides and supports Passenger Assistance Techniques training and provides a scholarship program for agencies to help offset the costs to send staff to training programs. RTAP funding may not be used for administrative, operating or capital assistance.

- (1) RTAP Program Goals:
 - (a) To promote the safe and effective delivery of public transit in rural areas and make more efficient use of public and private resources;
 - (b) To encourage the development of state and local ability for training and technical assistance;
 - (c) To improve the quality of information and technical assistance available through the development of resource materials;
 - (d) To facilitate peer-to-peer self help through the development of local networks of transit professionals; and
 - (e) To support the coordination of public, specialized, and human service transportation services.
- (2) RTAP Advisory Committee: INDOT has established a RTAP Advisory Committee to provide guidance and ongoing review of program development, implementation, and delivery. The committee is made up of representatives from private non-profit specialized providers, private for-profit providers, public transit providers (Section 5311), and state agencies.
- (3) RTAP's Relationship to Other FTA Funding Programs:
 - (a) Section 5311: The Section 5311 program has a direct relationship with RTAP because most rural public transit operators receive Section 5311 capital and operating assistance. Under the Section 5311 program, INDOT uses administrative funds to provide technical and grant assistance to Section 5311 grantees. As such, RTAP is viewed as an extension of this program.
 - (b) Section 5310: The Section 5310 Program provides capital assistance to non-profit agencies for meeting the special transportation needs of the elderly and persons with disabilities. Many Section 5310 funded agencies provide transportation services in small urban and rural areas. Some of these agencies also receive Section 5311 funding. The agencies providing rural transportation services are also intended to receive assistance through RTAP.

In addition to the above assistance, INDOT can arrange to provide assistance in other functional areas such as marketing and promotion, accounting and reporting, coordination, and personnel and labor relations. Please contact INDOT, Transit Office for further information.

SECTION III: GRANT PROCESS

A. REQUEST FOR FUNDING

Section 5311 funds are made available to eligible applicants on a calendar year basis. Based on funding availability, new applicants must complete an approved feasibility study in order to apply for funding assistance. Each new system will be established as a demonstration project that INDOT is not obligated to fund beyond two years.

During the first week of July, applicants are sent a grant application package and are instructed to submit a completed grant application. The deadline for submitting applications is typically the last week in August. Applicants having difficulty in completing the application may request assistance from INDOT before the August deadline.

In general, the grant application will include the following items:

1. Project description and budget: The applicant must describe existing transportation services, service area, number of passengers served, existing vehicle inventory, type of service provided, capital needs, proposed operating and capital budgets, procurement system, and system operation and performance. INDOT recommends that applicants begin small when establishing a new transit system and plan for service expansion. Experience has shown that small transit systems which are heavily utilized can successfully expand into larger transit operations.
2. Coordination with others:
 - a. Social Service Involvement: Many rural areas do not have "for-profit" service providers but almost all have some form of social service transportation service, or non-profit providers. Efforts must be made to encourage these providers to participate in and coordinate with the project.
 - b. Public Involvement: Public involvement is essential to providing a service that addresses community needs. Efforts to involve the public should be made. INDOT strongly encourages applicants to establish a local Transportation Advisory Committee (TAC) or board. The local TAC is expected to encourage private sector participation and to afford an opportunity for input in plan developments. For capital grants public hearings are required.
 - c. Transportation Improvement Plans: Section 5311 transit systems which are located within metropolitan planning boundaries must submit their transit projects to the applicable Metropolitan Planning Organization (MPO) for inclusion in the current Transportation Improvement Program (TIP). Guidance is provided in 23 CFR Part 450 and 49 CFR Part 613.

3. Grant justification: The applicant must provide evidence of need and how the services or equipment requested will meet that need. In addition, an explanation of how this project complements existing services and resources must be provided.
4. Governing body authorization: The appropriate legislative body must pass a resolution authorizing the applicant to pursue Section 5311 funding.
5. In addition, applicants (and their third party contractors) must annually certify compliance with the various federal requirements, which include the following:
 - a. Title V - Nondiscrimination requires that no person because of race, color, creed, national origin, sex, age, or disability be excluded from participation in, or denied the benefits of any project funded in whole or in part by FTA.
 - b. Equal Employment Opportunity (EEO) - Requires any recipient of FTA funds shall not discriminate against any employee or applicant for employment based on race, color, religion, sex, or national origin.
 - c. Section 504 - Requires recipients of FTA funds to make special efforts to provide transportation that is accessible to individuals with disabilities.
 - d. Americans With Disabilities Act (ADA) - Requires that equivalent services are provided to meet the needs of individual with disabilities.
 - e. Bus Testing - Requires the applicant to certify compliance with the federal regulation before accepting any new bus model.
 - f. Restrictions on Lobbying - Requires that no federal funds are used for lobbying and if other funds are used that specific reporting requirements are met.
 - g. Disadvantaged Business Enterprise (DBE) Program - Requires that all recipients of FTA funds be responsible for meeting applicable regulations regarding participation by DBEs in U.S. DOT programs set forth at 49 CFR Part 26, or any revision or supplement thereto.
 - h. Section 5333(b) - Requires the applicant to comply with applicable labor requirements and protective provisions for employees of surface transportation providers.
 - i. Charter Rule - Prohibits an FTA applicant from providing any charter service using FTA funded equipment or facilities if there is

at least one private charter service operator willing and able to provide that service that the applicant is proposing to provide. There are seven exceptions that are explained in the rule, 49 CFR PART 604.

- j. School Bus - Applicant must enter into agreement not to provide exclusive school bus operation.
- k. Environmental Protection - The applicant is to comply with FTA's environmental impact regulation for capital projects. Appropriate categorization of the project must be identified.
- l. Evaluation of Flood Plain (capital transit facilities only) - Applicants must conduct analysis of flood hazards if construction is within a flood plain.
- m. Real Estate Acquisition and Relocation - Capital Transit Facilities Only- Applicant must meet federal requirements for acquisition and relocation of private residents and businesses.
- n. Buy America Provision - Requires that steel and manufactured products procured under FTA funded contracts be of domestic manufacture or origin. There are four conditions under which the Administrator of the FTA may waive this requirement. These conditions are explained in the final rule, 49 CFR PART 661.
- o. FTA's Safety Jurisdiction - Failure to correct any condition FTA believes "creates a serious hazard of death or injury" will result in loss of federal assistance.
- p. Drug and Alcohol Testing - Regulations have been issued on drug and alcohol testing for transit systems that receive federal assistance. Grantees of federal funds are required to have drug and alcohol testing programs covering "safety sensitive employees".

INDOT continually monitors compliance through the application process, including the self-certification process, the auditing process and periodic on-site reviews.

B. EVALUATION CRITERIA FOR GRANTS

1. Operating Assistance

a. Existing Grantees:

Existing grantees (those applicants currently receiving Section 5311 funds) have already demonstrated satisfactory effort to

operate their transit system according to INDOT's guidelines. As such, the criterion used by INDOT to evaluate existing Section 5311 grantees is the completeness and adequacy of their application. A checklist is used to verify that all pertinent items are submitted, complete and adequate. INDOT will also conduct compliance reviews on a tri-annual basis.

b. First-time Applicants:

First-time applicants are those who have never received Section 5311 funding. A feasibility study must be completed to be eligible to apply for Section 5311 funding assistance. **FIGURE 1** is the feasibility study rating form. At a minimum, first-time applicant's feasibility study must address the following ten (10) evaluation factor criteria:

- (1) Completeness of study;
- (2) Identification of the need for public transit service;
- (3) Identification of potential trip generators;
- (4) Calculation of service demand (peak & off peak);
- (5) Identification of the most appropriate type of service;
- (6) Identification of capital requirements needed to meet demand;
- (7) Identification of proposed public transit service provider;
- (8) Identification of projected operating costs;
- (9) Determination of degree of long-term local community support and
- (10) Identification of marketing effort required for start-up.

c. New Applicants: (Funding for new applications is based on funding availability.)

New applicants are those who have completed an approved feasibility study and are now eligible to receive Section 5311 funding. INDOT and the Interagency Cooperation Group (ICG) will review applications. Seven (7) evaluation factor criteria are weighted according to importance in fulfilling program goals. **FIGURE 2** is the new applicant operating application review and rating form. The new applicant application criteria include the following:

- (1) The completeness of the application and compliance with guidelines and requirements of the application process.

INDOT expects, at a minimum, that applicants submit a complete grant application. Failure to adequately address every requirement will adversely affect the rating of the grant and may eliminate the grant from further consideration. INDOT intends to concentrate review time on the merits and

technical aspects of an application and not on compiling missing or inadequate information. INDOT transit staff are available to assist applicants with the application process.

- (2) The degree of local demand and local financial support for the project.
- (3) The ability of management to administer the grant and meet INDOT's program guidelines and requirements and operate a transit system.

New applicants will be evaluated on previous experience with similar grant programs, management structure, and accounting system. The ability of a new applicant to operate a transit system will be evaluated based on the proposed organizational structure of the system, the experience of personnel required to perform system functions, and the applicant's past experience in operating transportation service.

- (4) The extent to which existing area-wide services, manpower, and equipment are used in the project.

INDOT requires that applicants make every effort possible to coordinate available resources under operating and capital grants. Applicants must encourage every possible transportation provider (including private-for-profit) to participate in the project. Successful coordination would include the commitment of other local agencies to purchase service, share resources, and use the transit system. New applicants will be evaluated based on the amount of coordination expected and planned for in the proposed transit system. If other providers are not interested in participating in the project, then the applicant must develop a transit system compatible with the other providers.

- (5) The appropriateness of type of service, planned improvements, expansion, and equipment.

The development of a transit system must be carefully planned and explained because the proposed cost and the projected productivity are functions of the type of service established to meet the mobility needs. The applicant should make these decisions only after careful and appropriate consideration of the purpose and expectations for the service. If the purpose and expectations are not clearly defined, it will be impossible for the applicant to determine if the service is successful.

The grant justification should show the relationship between the transit service and the identified mobility needs and service area characteristics (e.g., geography, traffic patterns, population density, etc.). The applicant must make every reasonable effort to ensure that elderly and persons with disabilities will be able to use the public transit service.

The appropriateness of the type of service will be reviewed in part based on the following criteria:

(a) Fixed Route Service:

- [1] Service area has few main activity centers, central business district is usually the primary activity center;
- [2] Trip needs may be met through fixed schedules;
- [3] Trip needs may be met by service over major streets;
- [4] Service area has relatively high population density; and
- [5] Users have convenient access to routes

(b) Demand Responsive Services (including Dial-a-Ride, advanced request and shared-ride taxi):

- [1] Trip needs are dispersed throughout the service area and throughout the day;
- [2] A significant proportion of users are those who have difficulty walking and standing (e.g., getting to fixed route type services); and
- [3] Service area has relatively low population density

New applicants will be evaluated based on the appropriateness of the type of service in terms of the aforementioned criteria and on type of equipment to be used in relationship to the demand for service. Careful consideration will be given to assessing the methods used by the applicant in selecting a particular type of service.

(6) The actions previously implemented and/or planned to reduce operating costs and to improve operating revenue.

Since operating revenues do not cover total costs, it is imperative that management makes every effort to keep costs low. This is extremely important in view of the limited amounts of governmental assistance available to finance transit. The applicant's ability to increase operating and other

revenues will directly improve the financial stability of the transit system by decreasing its dependency on governmental assistance. The applicant must give consideration to an appropriate revenue recovery program for its transit system.

New applicants will be evaluated based on the reasonableness and appropriateness of expenses and revenue sources in relation to service characteristics. INDOT highly recommends that a formal fare structure be established.

- (7) The suitability of the existing and/or proposed promotional techniques and programs to reach riders and potential riders.

New applicants will be evaluated based on the appropriateness of planned marketing, public information, and promotional programs. These planned programs will be evaluated in relationship to objectives for reaching and maintaining projected ridership levels. At a minimum, INDOT expects each applicant to design some basic public information (i.e., bus schedules, ride guides, etc.) and also develop a proposal for its dissemination.

**FIGURE 1: SECTION 5311 FEASIBILITY STUDY
RATING FORM**

APPLICANT'S NAME: _____

Ratings: Excellent 3, Good 2, Adequate 1, Poor 0

1. Completeness of Study: _____
(Comments)

2. Identification of the need for Public Transit Service: _____
(Comments)

3. Identification of Potential Trip Generator: _____
(Comments)

4. Calculation of Service Demand (Peak and Off-Peak): _____
(Comments)

5. Identification of the Most Appropriate Type of Service: _____
(Comments)

6. Identification of Capital Requirements Needed to Meet Demand: _____
(Comments)

7. Identification of Proposed Public Transit Provider(s): _____
(Comments)

8. Identification of Projected Operating Cost: _____
(Comments)

9. Determination of Degree of Long-Term Local Community Support: _____
(Comments)

10. Identification of Marketing Effort Required for Start-up: _____
(Comments)

TOTAL SCORE: _____

REVIEWER'S NAME: _____

Please return form to INDOT, Transit Office, 100 N. Senate Ave., Indianapolis, IN.
46204-2219.

NOTE: This rating form will be used to evaluate Feasibility Study requests only.

FIGURE 2: NEW APPLICANT OPERATING APPLICATION REVIEW AND RATING FORM

APPLICANT'S NAME: _____

		Weight Factor	x	Rating	=	Weighed Score
1.	Completeness of the application and compliance with guidelines and requirements of the application process.	10				
2.	Evidence of demand of local financial support.	25				
3.	Ability of management to administer the grant and meet INDOT's guidelines and requirements and operate a transit system.	20				
4.	Extent to which existing area-wide services, manpower, and equipment are used in the project.	15				
5.	Appropriateness of type of service, level of service, planned improvements/expansion, and equipment.	10				
6.	Actions previously implemented and/or planned to reduce operating costs and improve operating revenue.	10				
7.	Suitability of the existing and/or proposed promotional techniques and programs to reach riders and potential riders.	10				

TOTAL WEIGHTED SCORE (Total points possible: 300) _____

Ratings: Excellent - 3 Good - 2 Adequate - 1 Poor - 0

REVIEWER'S NAME: _____

Please return form to INDOT, Transit Office, 100 N. Senate Ave., Indianapolis, IN. 46204-2219.

NOTE: This rating form will be used to evaluate New Applicant Operating requests only.

2. Capital Assistance

Similar to applying for operating assistance, the capital assistance application is evaluated according to several weighted factors. The weights of the factors represent the importance of the factor in achieving program goals. **FIGURE 3** is the Capital Application Review and Rating Form that is used to evaluate capital assistance requests. The capital application review criteria include the following:

a. Project Justification:

Are vehicle or equipment requests appropriate? (i.e. does the vehicles mileage information justify replacement?) Are facilities, expansion, or equipment necessary for continued and/or improved operation?

In regard to capital assistance, INDOT will give replacement vehicle projects the highest priority. However, it is critical for approval that sufficient information on mileage, age and condition of vehicles is provided. For guidance on determining the useful life of transit vehicles, please refer to Section V. Uncertainty in federal funding necessitates that the major emphasis for capital assistance be on replacement vehicles. Projects will be prioritized for eligibility as follows:

- (1) Replacement passenger vehicles for existing grantees;
- (2) Replacement of major equipment or maintenance items for existing grantees;
- (3) Passenger vehicles for expanded services for existing grantees and new applicant capital requests;
- (4) Rehabilitating facilities; and
- (5) Construction of new facilities

INDOT will consider projects for new facilities and expansion or rehabilitation of existing facilities. A project of this type must be clearly justified. For example, in the case of a facility expansion project, a transit property may decide to wash buses in-house rather than pay for a third party service. This decision will require the addition of a bus wash bay to the transit facility. To justify this project, the applicant must provide documentation that it is more cost-effective to wash buses in-house.

b. The ability of management to administer the grant and meet INDOT's guidelines and requirements.

INDOT expects all applicants to demonstrate that they will administer their capital grants in accordance with INDOT prescribed guidelines. In particular, INDOT will look for staff with experience or

access to personnel with experience in the fundamental aspects of procuring vehicles, equipment, and other capital assets; and in scheduling and implementing construction projects, if applicable.

- c. Extent to which existing area-wide services, manpower and equipment are used in the project.

This criterion will be evaluated in terms of how well the applicant has developed cooperative relationships with other agencies involved in providing transportation or other services which involve the use of resources similar to those required by the transit system. All capital projects will be reviewed in terms of the availability of opportunities to fulfill capital needs through cooperative relationships and sharing resources with outside agencies.

- d. Completeness of the application and compliance with guidelines and requirement of the application process.

All applications must be complete, information must be adequate for INDOT to evaluate the value and need for the project.

FIGURE 3: DISCRETIONARY CAPITAL APPLICATION REVIEW AND RATING FORM

APPLICANT'S NAME: _____

		Weight Factor	x	Rating	=	Weighted Score
1.	Project Justification: - Vehicle and equipment appropriateness. or - Facilities, expansion, or equipment necessary for continued and/or improved operation?	40				
2.	Ability of management to administer the grant and meet INDOT's guide lines and requirements.	30				
3.	Extent to which existing area-wide services, manpower, and equipment are used in the project.	20				
4.	Completeness of the application and compliance with guidelines and requirements of the application process.	10				

TOTAL WEIGHTED SCORE = _____
(Total points possible: 300)

Ratings: Excellent - 3 Good - 2 Adequate - 1 Poor - 0

COMMENTS: _____

REVIEWER'S
NAME: _____

Please return form to INDOT, Transit Office, 100 N. Senate Ave., Indianapolis, IN 46204-2219.

NOTE: This rating form will be used to evaluate Discretionary Capital requests only.

C. REVIEW PROCESS AND DEVELOPMENT OF PROGRAM OF PROJECTS

Review Process

It is important to note that the application review process is designed to identify projects of exceptional quality. Documented efforts to operate the transit system in the most effective and efficient manner possible, secure local sources of cash match, and establish a fare revenue policy consistent with local goals will be viewed positively by INDOT. However, preference will be given to existing section 5311 grantees, due to the limited amount of Section 5311 funding available.

INDOT and the ICG will review and rate the operating applications of new applicants and all capital applications using the application review and ranking forms identified in this section. INDOT will make a final project ranking taking into consideration the ICG's findings and comments. Based on this ranking, INDOT will make project selections based on the highest scores.

The selected applications and the existing Grantee's operating applications will be listed in the INDOT's Annual Program of Projects (POP). Each capital and operating application will be listed as a separate line item and the funding amounts will be identified. This Program of Projects will then be presented to the INDOT Office of Transit, Manager and FTA for approval.

Notification

Applicants will receive written notification of INDOT's decision. Any applicant not receiving approval of their application may appeal the selection decision to the Manager of INDOT's Transit Office. The process for filing an appeal is as follows:

1. Applicant must send, by certified mail, an appeal within 15 calendar days after receiving notification of INDOT's decision.

Mail To: Indiana Department of Transportation
Transit Office Manager
100 N. Senate Avenue
Indianapolis, IN 46204

2. INDOT will conduct a preliminary review within five working days, and if necessary, request by certified mail additional information from the applicant.
3. INDOT will allow five working days for receipt of additional materials;
4. INDOT's Transit Office manager will make a final decision within 15 working days from the receipt of the appeal request, or within 15 working days from the receipt of additional materials;
5. INDOT will notify the applicant in writing within five working days of its final decision;

6. Applicant may appeal INDOT's final decision in accordance with I.C. 4-21.5-3-1, *et seq.*

Program of Projects

Selected applications and existing grantee's operating applications will be incorporated into a statewide application, or Program of Projects (POP). Each capital and operating application will be listed as separate line items with the funding amounts identified. The POP is then submitted to FTA for approval.

D. CONTRACT EXECUTION

Once INDOT receives FTA approval of the statewide application, INDOT will execute a grant contract with each applicant. The applicant will then become a grantee. The contract describes the responsibilities of each party. If the grantee is a county, the contract must be signed by the Board of Commissioners or designee and must be attested by the County Auditor. If the grantee is a city, the contract must be signed by the Mayor and attested by the Clerk-Treasurer. If the grantee is a town, the contract must be signed by the President of the Board of Trustees and attested by the Clerk-Treasurer. INDOT, State Budget Agency, Indiana Department of Administration and the Attorney General's Office then sign the contract. The contract execution process takes approximately three months. INDOT returns a copy of the fully executed contract to the grantee with a notice to proceed.

SECTION IV: REPORTING, MONITORING AND AUDITING

A. REPORTING

INDOT requires all grantees receiving operating assistance to report financial and operating data on a quarterly and annual basis. Failure to provide these reports will result in INDOT withholding future reimbursement requests under the grant agreement. Also, INDOT compiles and publishes an annual report for all transit systems in the state based on information from this reporting system.

Grantees receiving capital assistance are required to keep appropriate property control records on all equipment and real property. Grantees are responsible for submitting these records to INDOT to meet the capital asset reporting requirement. Federal Office of Management and Budget and Federal Transit Administration guidelines are used in meeting this reporting requirement.

B. MONITORING

INDOT has undertaken an effort to analyze the compliance practices of its Section 5311 grantees and their subgrantees. This effort involves a comprehensive review of each grantee's practices to determine compliance with federal and state regulations. INDOT performs compliance reviews through desktop reviews as well as on-site reviews.

INDOT submits a compliance review report to the grantees. This report documents the findings from the desktop and on-site review and the corrective actions that should be taken to address the findings. Non-compliance items are noted as well as any comments in areas where the system is in general compliance. Included are corrective actions that should be taken to address the areas of non-compliance. Failure to correct areas of non-compliance may result in probationary actions or grant termination in the most severe cases.

Based on the quarterly and annual reports, INDOT evaluates potential problem areas on each Section 5311 transit system. Areas that are identified as possible problem areas are discussed formally through written means or informally through telephone calls with local representatives for explanation and/or resolution.

INDOT has developed a capital asset database using the property control records prepared by the grantees. This database is used to track capital assets and dispositions, and to cross check information with other reporting systems. In addition, the data base information is used for capital programming, such as determining the number of vehicles reaching the end of their useful life and calculating average prices for certain types of vehicles.

INDOT monitors grantee compliance with Title VI (Civil Rights), Disadvantaged Business Enterprise (DBE) and Equal Employment Opportunity (EEO) requirements by apprising them of their responsibilities, collecting documentation of compliance via site visits and requesting the submission of applicable reports. Documentation includes but is not limited to: quarterly Disadvantaged Business Enterprise utilization reports, Good Faith Effort documentation, the impact of grantee service provision on minority/disabled population and the employment make up of transit system personnel.

INDOT will monitor grantee compliance with Charter Service regulations by apprising them of federal requirements and by conducting unannounced requests for charter service to determine if such service is available without submission of an exception request as called for under 49 CFR 606.9(b)(3)

INDOT will monitor conformance with Federal Restrictions on Lobbying through on-site compliance review questions, in addition INDOT will review all applicable procurement documents for the presence of the Lobbying Certification. Lobbying restrictions apply to grants, contracts, and cooperative agreements involving \$100,000 or more (Section 319 of Public Law 101-121).

C. AMERICANS WITH DISABILITIES PARA-TRANSIT PLANNING

All existing grantees with fixed route transit operations are required to plan and implement complimentary para-transit services for individuals with disabilities. Grantees are required to report any changes in service or policy since approval of the para-transit plan.

D. FINANCIAL MANAGEMENT

INDOT and its grantees will dispense and account for program funds in accordance with Indiana Code 5-11-1-2. INDOT financial management practices provide data used to compile current financial reports such as required by FTA Circular 9040.1E. INDOT monitors grantee expenditures, checking for eligibility and conducts periodic site visits of its grantees during which time random invoices are traced throughout the local accounting system.

E. AUDITING AND PROJECT CLOSEOUT

The grantee is responsible for securing organization-wide or grant specific audits. All audits performed on grantees under the Section 5311 program shall be in accordance with Office of Management and Budget, Circular A-133 (Vol. II, Appendix E of the Section 5311 Program Manual). The closeout of Section 5311 grants will occur after INDOT has received, reviewed, and accepted the audit report(s) and any final grant reports, and notified the grantee of such acceptance.

The legally authorized auditing body for all grantees (units of local government - cities, counties, towns, etc.) is the State Board of Accounts. Grantees that contract with private companies for transit service must require that these companies provide them with their annual audit. The grantee is responsible for reviewing all sub-contractors' audit reports and appropriately resolving any findings. These sub-contractors' audits must be submitted to INDOT for review and acceptance.

SECTION V: VEHICLES, EQUIPMENT, AND REAL PROPERTY

A. PROCUREMENT

1. Standards

- a. Competition: All procurement will be conducted in a manner providing for full and open competition.
- b. Code of Conduct: Grantees must have a written code of conduct governing the performance of their employees engaged in the award and administration of contracts. Employees of the grantee shall not participate in selection, award, or administration of contract supported by federal and state funds if a conflict of interest, real or apparent, is involved.
- c. Purchase Review: Grantees must develop a process for reviewing purchases to avoid unnecessary and duplicate items. Consideration must be given to the most economical approach. Where appropriate, an analysis of lease versus purchase shall be made. All grantees are encouraged to use intergovernmental agreements, where possible.

- d. **Price or Cost Analysis:** Grantees shall perform a price or cost analysis with every procurement, including contract modifications. As a starting point the grantee must make an independent estimate before receiving bids or proposals. Usually a price analysis will be used to determine the reasonableness of the proposed contract price. This may also be established based on the catalog or market price of products sold in substantial quantities to the public, or based on price set by law. A cost analysis is required when the bidder is required to submit the cost elements of his estimated price (e.g., under professional service contracts such as, consulting or architectural and engineering). Also, a cost analysis is necessary when adequate price competition is lacking.
- e. **Contract Awards:** Grantees shall only make contract awards to responsible and responsive bidders. "Responsible" means a bidder who is capable of performing the contract requirements fully and who has the integrity and reliability that will assure good faith performance. "Responsive" means a bidder who has submitted a bid or quote conforming in material respects to the bid terms, conditions, and specifications. Federal regulations prohibit the use of contractors who have been debarred or suspended. INDOT will monitor adherence to this regulation by way of its annual compliance reviews and reviewing procurement documents for the presence of the Debarment and Suspension Certification (49 CFR Part 29).
- f. **Contracts:** All contracts must include all appropriate federal and state clauses. Most of these are identified in the Section 5311 grant assistance contracts between INDOT and the grantees. See **APPENDIX B** for a listing of applicable contract clauses.
- g. **Contract Administration:** Grantees must maintain a contract administration system, which ensures that contractors perform in accordance with the terms, conditions, and specifications of all purchases.
- h. **Contract Records:** Grantees shall maintain records to sufficiently detail the procurement history. At a minimum this should include the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- i. **Disputes and Protests:** Grantees are responsible for resolving all contractual and administrative issues arising out of procurement. Violations of law should be referred to the proper local authority having jurisdiction. If there is no local authority, the matter should be referred to INDOT. Grantees must have protest procedures to handle and resolve disputes relating to their procurement. A

protester must exhaust all administrative remedies with the grantee before pursuing protest with INDOT.

2. Purchasing and Leasing

Most purchases and leases (procurement) made under the Section 5311 program will be made through Sealed Bid (formal advertising) method. All procurement must be conducted in accordance with I.C. 5-22-7 Competitive Bidding, which has in most respects replaced I.C. 36-1-9 Purchasing and Leasing. Copies of all Indiana Codes related to procurement are available in Vol. II of the Section 5311 Program Manual.

- a. Annual Purchases & Leases Over \$25,000: Purchasing by Sealed Bids is required by state law (I.C. 5-22-7). The formal advertisement (notice) must be published in accordance with Indiana Code 5-3-1 Publication of Notices. Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the lowest responsible and responsive bidder. In addition to the published notice, INDOT strongly recommends direct solicitation to known vendors.

The grantee is responsible for preparing the bid contract and specification, advertising and soliciting bids, receiving and reviewing bids, and awarding the contract to the lowest responsible and responsive bidder.

An exception to the sealed bid requirement is for the development of specifications. A grantee may request proposals (using competitive procurement methods) for the development of specifications which will lead to a sealed bid procurement. The need to request proposals must be documented by the grantee and approved by the grantee's executive officer and INDOT. The resulting specification shall be subsequently issued for bid.

- b. Annual Purchases and Leases Under \$25,000: Purchases and leases under \$25,000 are considered small purchases, therefore relatively simple and informal procurement methods may be used. Grantees are allowed two options under this situation:
 - (1) If the grantee has small purchase procedures which meet the intent of I.C. 5-22-8, or which are stricter, then the grantee's procedures may be followed. If the grantee does not have small purchase procedures, they may invite quotes from at least three vendors known to deal in the type of purchase or lease being made. A copy of the specification should be mailed to the vendor not less than seven days before the time for receiving written quotes.

- (2) The grantee may purchase or lease in the open market without inviting or receiving quotes. However, INDOT does not recommend the use of option 2 except under emergency or severe time constraint situations.
- c. Request for Proposals: Request for Proposals (RFP) is the method generally used when conditions are not appropriate for the use of sealed bids and it is allowed by State law. One situation mentioned earlier is for the development of specifications. Also, a grantee may use the RFP method for the procurement of architectural, engineering, and land surveying services. Services of architects, engineers, and land surveyors must be procured in accordance with Indiana Code 5-16-11.1.

If this method is used, the following requirements apply:

- (1) The request must identify:
 - (a) All evaluation factors and their relative importance, including cost as a factor. Please note that cost may not be used as an evaluation factor for architectural and engineering services, in accordance with the federal Brooks' Amendment.
 - (b) Any bonding requirements or other evidence of financial responsibility.
 - (2) Solicitation of an adequate number of qualified vendors.
 - (3) Grantee must have a method for conducting technical evaluation for the proposals.
 - (4) Contract award will be made to the responsible vendor whose proposal is most advantageous to the program.
- d. Sole Source Procurement: Grantees may purchase or lease parts for machinery or equipment that can only be purchased from the manufacturer of the machinery or equipment without advertising or bids.
- e. Pre-award and Post-deliver Audits of Vehicle Purchases: Grantee must certify to INDOT that it will conduct a pre-award and post-delivery audit of vehicles purchased with FTA funds. The three sections of both audits are: Buy American, Bid Specifications, and Federal Motor Vehicle Safety Standards. INDOT has produced a guide to meeting these regulations. It is called *A Guide To The FTA's Pre-award and Post-delivery Audits Of Rolling Stock Purchases* and copies may be requested from INDOT.

Documentation of all pre-award and post delivery audits must be submitted to INDOT.

- (1) **Pre-awarded Audits:** The grantee must ensure that audits are complete before the grantee enters into a formal purchase contract for vehicles.

- (a) **Buy America:** For vehicle purchases in excess of \$100,000, the grantee must review documentation from the bidder as to the cost of the vehicle's major components and primary sub-components, their country of origin, the location of final assembly, and any activities that will take place at the location. Cost information is used to determine whether a vehicle meets the Buy America regulation; 60% of the vehicles' components must be domestically produced. All information resulting from this audit must be kept on file by the grantee.

If the vehicle does not have to meet Buy America regulations, then the grantee must have the federal waiver letter on file.

This audit shall not be done by the bidder or manufacturer. The grantee must do the necessary review and certification or hire an independent third party contractor to conduct the review and certification.

- (b) **Bid Specification:** The grantee must assure that the vehicle(s) proposed is the same vehicle(s) as described in the bid specifications. Also, they must certify that the bidder is a "responsive manufacturer with the capability to produce" the specified vehicle.

If a grantee is purchasing eleven or more vehicles, they must also provide a resident inspector on-site where the vehicles are being manufactured. This inspector must certify that they were on-site throughout the manufacturing process, monitored the vehicles' manufacturing, and must prepare a report about the manufacturing process.

- (c) **Federal Motor Vehicle Safety Standards:** If the vehicles being purchased are subject to FMVSS, the Grantee must ask for a certification from the bidder stating this fact. This bidder's self-certification must be kept on file.

If the vehicles are not subject to FMVSS, the bidder must provide a certification stating this. This certification must also be kept on file by the grantee. Therefore, the burden of proof is on the bidder to comply with this regulation.

(2) **Post-delivery Audits:** The grantee must ensure that audits are complete before vehicle titles are transferred to the grantee.

(a) **Buy America:** This is a certification that Buy America regulations (after change orders or other revisions) are still being met. If the vehicle does not have to meet Buy America regulations, then the grantee must have the waiver letter on file.

(b) **Bid Specification:** This audit is to assure that the delivered vehicle(s) conform to the contract specifications. It must make sure that any change orders have been considered in the review. Road testing is required as a part of the audit review.

For procurement of eleven vehicles or more, the grantee must certify that the resident inspector was on-site throughout the manufacturing period and monitored the manufacturing process. A copy of the resident inspector's report must be kept on file.

(c) **Federal Motor Vehicle Safety Standards:** The grantee must maintain on file the FMVSS certification by the bidder. If the vehicle(s) is not subject to FMVSS, then the grantee must maintain on file the bidder's certification that FMVSS do not apply.

(d) **Bus Testing:** Any new bus model must be tested at the FTA test facility in Altoona, Pennsylvania in accordance with federal regulation 49 CFR PART 665. This requirement covers all medium and heavy duty body-on-chassis and purpose built buses of 25 feet or greater. The grantee must require that the bidder/manufacture provide the testing report before final acceptance of the vehicle(s). It is the grantee's responsibility in dealing with the bidder/manufacture to determine if the vehicle is subject to these requirements. FTA and the manufacturer pay the cost of testing.

3. INDOT Review

All bid contracts, invitation for bids, and request for proposals for purchases or leases of \$25,000 or greater must be submitted to INDOT for review. In addition, grantees must make all technical specifications available for review, when INDOT believes such a review is needed to ensure that the purchase or lease specified is consistent with the grant award. Also, grantees must make available all procurement documentation upon request by INDOT.

B. VEHICLE, EQUIPMENT and FACILITY USE

VEHICLE & EQUIPMENT USE

Equipment is defined as tangible, non-expendable, personal property having a useful life of more than one year and a unit price of \$300.00 or more. Typically, equipment includes such items as major spare parts, computer systems, communication system major maintenance tools, passenger shelters, etc.

Vehicles and equipment shall be used in the program for which it was acquired as long as it is needed. This is true even if Section 5311 funding does not continue to fund the program. All grantees are required to submit an "annual certificate of use" for all vehicles and equipment acquired under the Section 5311 Program.

The grantee may make vehicles or equipment available for use in other programs or projects currently or previously supported by federal funds. However, this use may not interfere with the work on the program or project for which it was originally acquired. User fees shall be considered in this situation. Federally funded vehicles and equipment may not be used to provide services for a fee to compete unfairly with private companies.

As mentioned above, Section 5311 grantees may not reserve FTA funded vehicles for exclusive use, pursuant to a common purpose and under an itinerary specified in advance without INDOT and FTA approval. Such a service constitutes charter service, and is prohibited, unless the grantee submits documentation of one of the seven exceptions outlined in 49 CFR 604. Similarly, a grantee may not engage in exclusive school bus service in competition with private school bus operators. Transportation of school children may be provided where such an operation is open to the public and the provision of services is incidental to the regular transit operation. Guidance on eligible school bus operations is provided in 49 CFR 605. INDOT will monitor grantees for compliance with Charter Service and School Bus Operations regulations.

SATISFACTORY CONTINUING CONTROL

A grantee must maintain satisfactory continuing control over facilities and equipment and ensure that they are used in transit service. A grantee must demonstrate control and use as required in FTA Circular 5010.1C. INDOT will monitor these stipulations

through the annual compliance reviews. Any change in the use of vehicles or equipment must be approved by INDOT.

1. Management Requirements: The grantee shall provide management records of all vehicles and equipment based on the following, as a minimum effort:
 - a. Vehicle and equipment control records must be maintained. These records shall include:
 - (1) description of vehicle or equipment;
 - (2) serial or identification number;
 - (3) purchase date and price;
 - (4) source of property;
 - (5) title holder (owner);
 - (6) federal participation;
 - (7) physical location;
 - (8) current use and condition;
 - (9) disposal data; and
 - (10) disposal price;
 - b. A physical inventory of vehicles and equipment must be taken and the results reconciled with the control records at least every two years. A grantee must maintain a listing of a vehicle inventory, peak vehicle requirements and active vehicles.
 - c. A control system must be developed to safeguard against loss, damage, or theft of vehicles and equipment. Each grantee is required to maintain adequate insurance coverage as required by federal, state and local law.
 - d. Adequate maintenance procedures and programs must be developed to keep vehicles and equipment in good condition. Preventive maintenance programs are required for all Section 5311 funded vehicles.

C. FACILITY CONSTRUCTION AND RENOVATION

Facility is defined as any building which was constructed in whole or in part with Federal Transit Administration funds. The grantee must determine whether the construction of an administration building, storage facility, garage or other type of construction will have a significant impact on the environment and may proceed only after conducting an environmental impact study or obtaining a categorical exclusion.

Title VI regulations require that grantees perform a Fixed Facility Impact Analysis to assess the potential impact of new construction on minority communities. Such an analysis may be a part of an environmental impact analysis.

Section 5311 grantees must use competitive proposal methods for obtaining architectural and engineering services. Guidance is provided in Federal Transit Administration Circular 4220.1D.

A grantee must maintain procedures for Facility Construction and Renovation. INDOT requires that these procedures include:

1. Adequate staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;
2. A budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits and miscellaneous payments the grantee may be prepared to justify;
3. A construction schedule;
4. Organizational structures, management skills, and staffing levels required throughout the construction phase; and
5. Internal plan implementation and reporting requirements, including cost and schedule control procedures

INDOT will monitor facility construction and renovation projects by requiring monthly submission of project budget and project schedule updates.

Adequate maintenance procedures must be implemented to protect federally funded facilities and ADA accessibility features from damage and deterioration. OMB Circular A-102 stipulates that periodic physical inventory of properties is taken to determine its condition. INDOT will conduct compliance reviews during which time grantees must show documentation of periodic inspections and regular maintenance procedures designed to protect the investment of federal funds.

INDOT will also monitor all transit facilities for compliance with ADA accessibility features. The grantee is responsible for implementing the ADA Accessibility Guidelines found in 49 CFR 37 and providing an accessible environment throughout its facilities. Other aspects of facility accessibility include a transit system's provision for the use of service animals (guide dogs) and personal care attendants. INDOT will review a grantee's written policies and staff training concerning ADA service provisions to determine compliance with 49 CFR 37.161.

D. DISPOSITION

1. Planned Disposition

When vehicles, equipment, and/or real property are no longer needed for the original project or program, disposition of said items must be made in

accordance with Indiana Code 36-1-11 Disposal of Real or Personal Property. Real property is defined as land and buildings, including any accessories added to the land or buildings.

Real property and items of equipment with a current per-unit fair market value of less than \$5,000 must be disposed of in accordance with Indiana Code with no further obligation to INDOT. Based on INDOT's useful life policy, vans reaching the threshold of 100,000 miles or four (4) years, INDOT no longer has any financial interest in. INDOT must be notified of all disposition actions.

Real property and equipment with a current per-unit fair market value of \$5,000 or greater must also be disposed of in accordance with the Indiana Code. However, a written disposition plan must be submitted to INDOT for review. Income from the disposition must be retained by the grantee for the transit program. INDOT will track equipment transfers in Program of Project (POP) reports that are submitted to the Federal Transit Administration. Documented evidence that the income is being used for the transit program must be provided to INDOT.

2. Vehicle Disposition

- a. Disposition actions for vehicles with fair market values of \$5,000 per vehicle or greater must be submitted to INDOT. The preferred method of disposition is the transfer of vehicles to another INDOT grantee. When INDOT is notified that vehicles are available for disposition, INDOT will mail a notice of availability of these vehicles to all current INDOT grantees. The vehicles will be available for 30 calendar days for transfer to other INDOT grantees, in accordance with I.C. 36-1-11. Under a transfer arrangement the grantee, disposing of the vehicles shall receive payment for their pro-rata share of their local investment. This shall be based on the fair market value of the vehicles multiplied by the percent local match. If no other grantee is interested in the vehicles, then they may be disposed of. FTA requires that the proceeds of any disposition actions be used for public transportation. This arrangement is consistent with I.C. 36-1-11 and FTA Circular 5010.1C. If other Section 5311 grantees are interested and obtain a vehicle under this section, INDOT will update the applicable Program of Projects annually, to reflect such equipment transfers.
- b. Mid-life Sale of Vehicles ("Like-kind Exchange"), Grantees may elect to use the trade-in value or the sales proceeds from a vehicle to acquire a replacement vehicle of a like kind. This option may be undertaken before the end of the useful life of the vehicle. If a grantee chooses to re-invest the proceeds, 100 percent of the net proceeds must be applied to the acquisition of the replacement vehicles.

This new initiative by the Federal Transit Administration, was published in the August 28, 1992 Federal Register. It is known as 49 CFR Change VI-Change in Policy on Sale and Replacement of Transit Vehicles; Rule. This policy change is an effort to stimulate the economy and develop a secondary, used-bus market. It is expected to increase the rate of new vehicle acquisitions, thereby accelerating the introduction of "cleaner" vehicles in terms of air quality and vehicles that comply with the Americans with Disabilities Act.

3. Insurance Settlements

In the event of loss due to casualty, fire, or theft the insurance settlement may be used toward the replacement of the lost items. An estimate of the insurance settlement must be provided to INDOT to determine the settlement value of the items. If the items are determined to be no longer necessary, then the settlement shall be used for the transit program. Documented evidence that the settlement is being used for the transit program must be provided to INDOT.

4. Determination of Fair Market Value

The fair market value for vehicles and equipment may be determined by the use of the straight-line depreciation method or by the averaging of two independent appraisals. If straight-line depreciation is used for valuing vehicles, then it should be based on the useful life years specified in Subsection D of this plan. We recommend that all vans be valued based on the straight-line depreciation method.

E. PASSENGER VEHICLE CLASSIFICATION AND USEFUL LIFE

1. Vehicle Classification

The INDOT has developed the following passenger vehicle classifications for the Section 5311 Program.

a. Van: Vans are further broken down into four sub-categories:

- (1) Mini-Vans: Seven passenger or less vans that are commercially available from automobile manufacturers as a part of their standard vehicle production line;
- (2) Standard Van: Eight passenger or greater vans that are commercially available from automobile manufactures as a part of their standard vehicle production line. This includes maxi-vans;

- (3) Modified Van: A modified van is a standard van or maxi-van that has undergone some body or structural change. Typical changes include a raised top, widened passenger entry door, extended stepwell at passenger entrance, and wheelchair lift; and
 - (4) Body On Van Chassis (BOVC): A passenger Light Transit Vehicle (LTV) built on a van chassis. BOVCs have wider and/or longer bodies installed on a van chassis. Typically these vehicles are built by School Bus and Recreational Vehicle manufacturers.
- b. Body On Truck Chassis (BOTC): This passenger vehicle is similar to the BOVC in that the body is attached to a truck chassis. However, this vehicle is a heavier duty vehicle because it is built on a truck chassis. It is for this reason it is classified separately from a van.
 - c. Transit Bus: A transit bus is designed and manufactured specifically for transit service (i.e., purpose built). The construction of the body and chassis is integrated and normally done by one manufacturer. Most transit buses are diesel powered. Transit buses are broken down into three size sub-categories:
 - (1) Small Transit Bus: Any transit bus under 30 feet
 - (2) Medium Transit Bus: Any transit bus 30 to 34 feet in length.
 - (3) Standard Transit Bus: Any transit bus 35 to 40 feet in length.

2. Vehicle Useful Life

INDOT has developed the following vehicle useful life policy for the purpose of evaluating vehicle disposition requests and capital replacement applications. The useful life policy is shown in **TABLE 1**. However, merely obtaining sufficient miles and years on a vehicle does not guarantee federal capital assistance for its replacement. Section 5311 applications are evaluated competitively based on project justification, coordination, fiscal capabilities, and capital project priorities.

The primary criterion in determining the vehicle useful life is mileage. The age of the vehicle will be considered only after the vehicle's mileage has been determined to be at or greater than the mileage categories listed in **TABLE 1**.

TABLE 1: VEHICLE USEFUL LIFE POLICY

<u>Vehicle Classification</u>	<u>Miles</u>	<u>Years</u>
Taxi (sedan/wagon)	100,000	4
Vans:		
- Mini-Van	100,000	4
- Standard	100,000	4
- Modified	100,000	4
- Body on Van Chassis (BOVC)(LTV)	100,000	4
Body On Truck Chassis (BOTC)	150,000	6
Transit Buses:		
- Small (under 30')	200,000	7
- Medium (30' - 34')	350,000	10
- Standard (35' - 40')	500,000	12

The age of the vehicle is calculated from the date the vehicle is actually placed into service, and not from the vehicle model year. On rare occasions, a grantee may have a vehicle that needs replacement prior to reaching its designated mileage. INDOT will consider these exceptions on a case by case basis.

3. Vehicle Replacement Planning

Grantees are required to develop and submit to INDOT a passenger vehicle replacement plan. The plan shall use the vehicle useful life mileage as the basis for determining the replacement of vehicles. The plan shall cover a five-year period and be updated biennially (after the original submission an updated plan will be due every other year). The plan shall show the number, classification, and the estimated cost of the vehicles to be replaced or added.

SECTION VI: COMPLAINT PROCESS

A. LOCAL COMPLAINTS

The grantee is required to resolve any complaints from transportation providers resulting from a local decision or interpretation concerning the Section 5311 program. The grantee is required to keep record of correspondence related to the issue, information used in making its decision and the process used in resolving the issue. Also, the grantee must inform the transportation provider of the local appeal process and the transportation provider's rights under the process. If the complaint is not satisfactorily resolved, the originating party may appeal the grantee's decision to INDOT.

All complaints presented to INDOT will be heard by the Section 5311 Program Manager, the Transit Office Manager and the Local Programs Division Chief with concurrence by the INDOT Deputy Commissioner, Office of Planning and Production. The originating party must file with INDOT a written request of

complaint within 15 calendar days following the grantee's final decision. The complaint request must be made by certified mail and contain a brief description of the issues and copies of all relevant information. INDOT will conduct preliminary review within five working days and, if necessary, request by certified mail additional information from the originating party or the grantee. INDOT will allow five working days for receipt of additional materials. INDOT will make a final decision within 15 calendar days from the receipt of the complaint request or, if additional material was requested, within 15 calendar days from the receipt of the additional material. INDOT will notify the originating party and the grantee of its decision within five calendar days. INDOT's decision may be appealed in accordance with Indiana Code 4-21.5-3-1, *et seq.*

APPENDIX A

EXAMPLE ALLOCATION FORMULA CALCULATION

Yourtown's Pop.	10,000			
Grantees' Total Pop.	500,000			
	<u>3 Yr. Ave</u>	<u>Yr1</u>	<u>Yr2</u>	<u>Yr3</u>
Yourtown's Pass.	20,000	18,000	20,000	22,000
Grantees' Total Pass.	800,000	700,000	800,000	900,000
Yourtown's LDI	\$10,000	\$8,500	\$9,500	\$12,000
Grantees' Total LDI	\$400,000	\$300,000	\$450,000	\$450,000

Weight Factors: Population = .3 Passenger Boardings = .3 LDI = .4

Allocation Formula:

$(\text{Yourtown Pop.} / \text{Grantees' Pop.}) \times .3 + (\text{Yourtown Avg. Pass.} / \text{Grantees' Avg. Pass.}) \times .3 +$

$(\text{Yourtown Avg. LDI} / \text{Grantee's Avg. LDI}) \times .4 \times \text{Avail Sec. 18 Funds} = \text{Yourtown's Allocation Amount}$

Available Section 5311 Funding = \$2,500,000

1. Population Factor Calculation:

$(\text{Yourtown POP} / \text{Grantees' Total POP}) \times \text{Weight Factor} = \text{POP Factor}$
 $(10,000 / 500,000) \times .3 = 0.006$

2. Passenger Trip Factor Calculation:

$(\text{Yourtown AVG PASS} / \text{Grantees' Total AVG PASS}) \times \text{Weight Factor} = \text{PASS Factor}$
 $(20,000 / 800,000) \times .3 = 0.0075$

3. LDI Factor Calculation:

$(\text{Yourtown AVE LDI} / \text{Grantees' Total AVG LDI}) \times \text{Weight Factor} = \text{LDI Factor}$
 $(10,000 / 400,000) \times .4 = 0.01$

4. Yourtown's Total Allocation Factor Calculation:

POP Factor + PASS Factor + LDI Factor

5. Yourtown's Section 5311 Allocation Calculation:

Available Section 5311 Funding x Yourtown's Total Allocation Factor
 $0.0235 \times \$2,500,000 = \underline{\$58,750}$

APPENDIX B

CONTRACT CLAUSES LISTING

Buy America Requirements
Cargo Preference
Seismic Safety
Energy Conservation Requirements
Clean Water > \$100,000
Bus Testing
Pre-Award and Post Delivery Audit Requirements
Lobbying > \$100,000
Access to Records and Reports
Federal Changes
Bonding Requirements
Clean Air > \$100,000
Recycled Products
Davis-Bacon Act
Contract Work Hours and Safety Standards Act
Copeland Anti-Kickback Act
No Government Obligation to Third Parties
Program Fraud and False or Fraudulent Statements and Related Acts
Termination
Debarment and Suspension >\$100,000 (Nonprocurement)
Federal Privacy Act Requirements
Civil Rights
Breach of Contract and Dispute Resolution > \$100,000
Disadvantaged Business Enterprises
State and Local Law Disclaimer
Incorporation of Federal Transit Administration (FTA) Terms
Executive Order No. 90-5 (Drug Free Certification)

Sample contract clauses meeting the above requirements are available from the INDOT Transit Office.